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SUBJECT: CZECH REPUBLIC: NO HASTE ACTION EXPECTED ON THE BIT

REF: STATE 15774

1. (SBU) SUMMARY AND COMMENT: Czechs remain troubled by the U.S.-Czech BIT and the potential liability the GOCR attributes to it. However, post does not/not believe this Czech government would be willing to expend enough political attention on the issue to terminate the BIT. While the fragility of the current government and its lack of majority in Parliament makes it difficult to guess how long that will last, post believes Czechs have bigger fish (or radars) to fry at the moment, which will prevent them from paying sufficient attention to terminate the BIT. Nevertheless, post agrees the USG needs to remain attentive and engaged to Czech concerns. END SUMMARY AND COMMENT.

2. (SBU) Econoff met February 21 with the Ministry of Finance Director of the Legal Section Vaclav Rombald to hear his reactions to the reftel USG response to the February 2006

Czech diplomatic note requesting amendments to the existing U.S.-Czech Bilateral Investment Treaty (BIT). Rombald said the USG response was "sufficiently clear," even if the answer is not as the GOCR had hoped. While he readily conceded that the USG position was theoretically correct, he said the GOCR was focused on its practical experience (i.e. the CME case). He concluded that the USG has no intentions of amending the BIT due to the negative precedent it would create for other BITs. In response to the USG offer to provide further clarifications to address Czech concerns, Rombald replied that would not likely be necessary given such clarifications are not legally binding.

3. (SBU) Rombald said that new Minister of Finance Kalousek had not yet been briefed on this issue, although he may be aware of it in general terms given his previous position as chairman of the budgetary committee in Parliament. Rombald reminded that a government resolution gave a fall 2007 deadline for an interagency proposal on resolution of the issue to Parliament or a request additional bilateral consultations. In response to Econoff's question about which was more likely -- some sort of a resolution or further consultations -- Rombald said he could not answer because he was not sure what the Czech interagency group would ultimately propose. Personally speaking, Rombald said he was not sure how any progress would be possible given the clear and strong position of the USG. He insisted that the BIT is not that important to American investors in the practical sense, given that all the provisions covered by the BIT are provided in other EU and Czech laws. Therefore, he argued, the USG should not regard the proposed amendments to the BIT in such an monumental significance and implications.

4. (U) Regarding the GOCR invitation for a USG delegation to

visit Prague after March 19, 2007 for further discussions on the BIT, Rombald believes further consideration on the invitation should be made after the USG receives the official Czech response to reftel, which he estimated would take about one month.

MUNTER